

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA

NORTHERN DIVISION

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JERRA A. HAYES, CLERK
U.S. DISTRICT COURT
MONTGOMERY, ALABAMA

Robert Andrew Wermuth,
Plaintiff,

VS: Action No. 2:05-CV-644-D

Shannon Carroll Youngblood, et.al.,
Defendants,

OBJECTIONS TO MAGISTRATES ORDER
PURSUANT TO F.R.Cv.Pr. RULE 72

Comes now Plaintiff, Robert Andrew Wermuth, Pro Se and makes the following objections to the Magistrates Order entered in this cause on April 14, 2006;

1) The Magistrates Memorandum Opinion and Order grants Defendant Youngblood's Motion for summary judgment stating that " Youngblood is entitled to discretionary function immunity pursuant to Ala. Code § 6-5-338 (1975) on Wermuths assault claim against Yuongblood."

2) The Magistrate erred in granting the defendant discretionary function immunity as the defendant was clearly violating established Standard Operating Procedures of the Montgomery Police Department

when engaging in a vehicle pursuit, during which pursuit Youngblood attempted to use his vehicle to "Ram" Wermuth and end the pursuit.

3) The Magistrate has determined that defendant YOUNGBLOOD was performing a discretionary function when the alleged wrong occurred and the burden then has shifted to Plaintiff to demonstrate that the defendant acted in bad faith, with malice or willfulness, Plaintiff asserts that Defendant's exhibit # 8 "Motor Vehicle Pursuit " policy clearly states that pursuit is to be terminated when the identity of the subject is known, and that boxing in, ramming and roadblocks are not to be used.

The Defendant is not entitled to immunity when violating standard operating procedure.

Wherefore, plaintiff asserts that the portion of the Magistrate Order granting Defendant Youngblood Summary Judgment should be reversed by this Court and a Trial Date set for resolution of the plaintiff's claims against Youngblood.

Done on this day of April 2006

Robert Wermuth
200 Wallace dr.
Clio, MI 48601

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of 1) Objections to Magistrates Order on the persons who's addresses are below by placing same in the U.S. mail.

City of Montgomery
Legal Department
Kimberly D. Fehl
103 N. Perry St.
MONTgomery AL 36104

United States District Court
Clerk of Court
P.O. Box 711
MONTgomery AL 36101-0711

Done on this 21st day of April 2006

Robert Wermuth
Robert Wermuth
200 WALLace dr.
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